Remark

The Applicant respectfully requests reconsideration of this application as amended. No claims have been amended. No claims have been added. Claims 2, 11-33 and 46 have been cancelled without prejudice. Therefore, claims 1, 3-10 and 34-45 remain present for examination.

Election/Restrictions

The Examiner has required restriction to one of two purportedly distinct claim groups under 35 U.S.C. § 121. The Applicant hereby elects, without traverse, to prosecute in this application the invention represented by Claim Group I which includes claims 1, 3-10 and 34-45. Consequently, the Applicant has submitted herein a proposed amendment to cancel, without prejudice, those of the claims associated with the invention of Claim Group II, i.e., claims 2, 11-33 and 46.

35 U.S.C. § 112 Rejection

In the Office action, the Examiner rejected claims 1-46 under 35 U.S.C. §112, first paragraph, as purportedly containing subject matter that is not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

As an initial matter, the undersigned would like to point out that the Examiner's rejection appears to be limited to claims 1, 2 and 45 as the specific phrase called into question by the Examiner is only found in claims 1 and 45. Recall, the phrase specifically identified by the Examiner as rendering the claims indefinite is "one of said first and second jet engines having a maximum thrust greater than the maximum thrust of the other ..., **said thrust differential created by a different power setting** on one of two otherwise equally powered jet engines"

(emphasis added). Notably, element (c) of claims 4, 7, 34, 42 and 44 are all phrased differently than the example relied upon by the Examiner to reject all of the claims under 35 U.S.C. § 112, first paragraph. For example, the relevant portion of claim 4 reads as follows: "the second jet engine being substantially identical to the first jet engine but having a lesser maximum thrust than the maximum thrust of the first jet engine **as a result of limiting the second jet engine's maximum thrust capability**" (emphasis added).

Assuming the Examiner intended his rejection of the particular phrase occurring only in claims 1, 2 and 45 to apply to claims 4-10 and 34-44 as well, the undersigned attempts below to clarify how the recited thrust differentials may be achieved with reference to relevant portions of the specification. The undersigned respectfully disagrees with the Examiner's position that the specification does not reasonably provide enablement "for both engines to be equally powered jet engines when one of the first and second jet engines have a maximum thrust greater than the maximum thrust of the other." The Examiner's attention is directed to pages 2 and 3, paragraphs [0006] to [0008] which are presented below for the Examiner's convenience:

> **[0006]** The engine thrust differential may be achieved by various combinations of different engines. It may also be achieved by combinations of the same engines.
> **[0007]** One way of achieving a thrust differential from a pair of engines which are the same is by "down-rating" or otherwise reducing an engine from its maximum thrust. It may be possible to purchase two engines of identical maximum thrust potential, but down-rate one of them beneath its maximum thrust. Except for the down-rating, the engines are the same (resulting in common parts and common skills in the maintenance crew). Because of the down-rating, one of the engines (the down-rated one) may be less expensive than the other engine).
> **[0008]** Even without down-rating, the benefits of a thrust differential could be achieved in a pair of centerline mounted engines which are entirely identical if one of them is either shutdown (that is, "staged") during one or more flight segments, or is run at a different power setting than the other engine.

Consequently, this portion of the specification describes at least three ways of creating a thrust differential between two equally powered jet engines: (1) "down-rating" or otherwise

reducing one of the engines from its maximum thrust potential; (2) "staging" one of the engines during one or more flight segments; and (3) running the engines at different power settings.

For purposes of illustrating the understanding of the concepts of "down-rating" and "flat rating" by those of ordinary skill in the art at the time the present application was filed, the undersigned has enclosed herewith exemplary patents, articles, and definitions. To the extent the Examiner is unfamiliar with the concepts of down-rating and flat rating, the undersigned would like to direct the Examiner's attention to the following definition, "throttling or other ***restriction of engine power*** [output] (usually in turboprops and turboshafts) at sea level to enable it to give constant predictable power at higher operating altitudes" (Emphasis Added. See Pilotfriend Aviation Glossary). Additionally, two particularly helpful articles are enclosed herewith, one entitled "Aerodynamics" from the rotor & wing section of Aviation Today and another entitled "Turbine Engines" from The X-Plane Journal web site which includes the following passage in the first full paragraph of the third page:

> Although the engine may be capable of producing higher power output, it will be limited to not overstress or overheat the engine. The engine may be guaranteed to produce a constant amount of power up to a certain speed or altitude. ***So, for example, an engine may be capable of producing 1500lbs of thrust, but it may be flat rated at 1300lbs. This means that you're guaranteed to get 1300lbs of thrust throughout the flat rated operating range.*** You may be able to get more at certain conditions. (emphasis added).

At any rate, in view of the three specific examples recited by the specification for creating thrust differential between two jet engines and in view of the understanding of those of ordinary skill in the art, it is respectfully submitted that the language of the specification clearly teaches those or ordinary skill in the art that two equally powered jet engines may have different maximum thrust capabilities. Additionally, in view of the foregoing, it is respectfully submitted that one of ordinary skill in the art to which the invention pertains would be perfectly capable of making and using the invention. For at least these reasons, the undersigned respectfully requests

the Examiner to withdraw the rejection of claims 1, 3-10 and 34-45, as well as the objection to the specification.

Conclusion

The Applicant respectfully submits that the rejections have been overcome by the amendment and remark, and that the remaining pending claims are now in condition for allowance. Accordingly, the Applicant respectfully requests that the rejections be withdrawn and that a Notice of Allowance be issued for claims 1, 3-10 and 34-45.

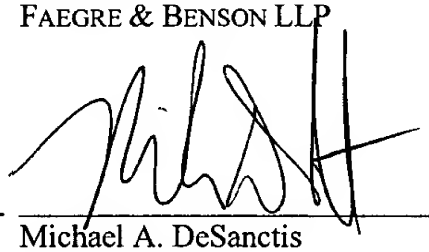
Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 607-3633 if there remains any issue with allowance of the case.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 06-0029

Respectfully submitted,
FAEGRE & BENSON LLP



Date: April 21, 2003

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MARKED VERSION SHOWING CHANGES

In the claims:

Presented below are the claims, as amended, with changes marked. Insertions are underlined, deletions are bracketed.

Please cancel claims 2, 11-33, and 46

1 2. (Cancelled)

1 11-33. (Cancelled)

1 46. (Cancelled)